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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 K.L., a minor by and through his  
11 guardian *ad litem* NIJAE McGHEE,  
12 individually and as successor-in-interest  
13 to KENNETH LEWIS JR.; KENNETH  
14 LEWIS SR., individually; and  
BELINDA MILLER, individually;

15 **Plaintiffs,**

16 **vs.**

17 **COUNTY OF LOS ANGELES; and**  
18 **DOES 1-10, inclusive,**

19 **Defendants.**

Case No. 2:18-cv-4910

**COMPLAINT FOR DAMAGES**

1. Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)
2. Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)
3. Fourth Amendment—Excessive Force (42 U.S.C. § 1983)
4. Fourth Amendment—Denial of Medical Care (42 U.S.C. § 1983)
5. Substantive Due Process (42 U.S.C. § 1983)
6. Municipal Liability—Ratification (42 U.S.C. § 1983)
7. Municipal Liability—Inadequate Training (42 U.S.C. § 1983)
8. Municipal Liability—Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
9. False Arrest/False Imprisonment
10. Battery (Wrongful Death)
11. Negligence (Wrongful Death)
12. Violation of Cal. Civil Code § 52.1

**DEMAND FOR JURY TRIAL**

1                                   **COMPLAINT FOR DAMAGES**

2           COME NOW, Plaintiffs K.L., individually and as a successor-in-interest to  
3 Kenneth Lewis Jr., deceased; Kenneth Lewis Sr., individually; and Belinda Miller,  
4 individually, for their Complaint against Defendants County of Los Angeles, and  
5 Does 1-10, inclusive, and allege as follows:

6  
7                                   **JURISDICTION AND VENUE**

8           1.       This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331  
9 and 1343(a)(3)-(4) because Plaintiffs assert claims arising under the laws of the  
10 United States including 42 U.S.C. § 1983 and the Fourth and Fourteenth  
11 Amendments of the United States Constitution. This Court has supplemental  
12 jurisdiction over Plaintiffs' claims arising under state law pursuant to 28 U.S.C. §  
13 1367(a), because those claims are so related to the federal claims that they form part  
14 of the same case or controversy under Article III of the United States Constitution.

15          2.       Venue is proper in this Court under 28 U.S.C. § 1391(b) because  
16 Defendants reside in this district and all incidents, events, and occurrences giving  
17 rise to this action occurred in this district.

18  
19                                   **INTRODUCTION**

20          3.       This civil rights and state tort action seeks compensatory and punitive  
21 damages from Defendants for violating various rights under the United States  
22 Constitution and state law in connection with the fatal officer-involved shooting of  
23 the decedent, Kenneth Lewis Jr., on August 16, 2017.

24  
25                                   **PARTIES**

26          4.       At all relevant times, Decedent Kenneth Lewis Jr. ("DECEDENT")  
27 was an individual residing in the County of Los Angeles, California.

1           5.       Plaintiff K.L. is a minor individual residing in County of Los Angeles,  
2 California, and is the natural born son to DECEDENT. K.L. sues by and through  
3 his natural mother and guardian *ad litem*, NIJAE McGHEE. K.L. sues both in his  
4 individual capacity as the son of DECEDENT and in a representative capacity as a  
5 successor-in-interest to DECEDENT pursuant to California Code of Civil Procedure  
6 § 377.30. K.L. seeks survival damages, including pre-death physical and mental  
7 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
8 damages under federal and state law.

9           6.       Plaintiff KENNETH LEWIS SR. (“LEWIS SR.”) is an individual  
10 residing in County of Los Angeles, California, and is the natural father of  
11 DECEDENT. LEWIS SR. sues in his individual capacity as the father of  
12 DECEDENT. LEWIS SR. seeks wrongful death damages.

13           7.       Plaintiff BELINDA MILLER (“MILLER”) is an individual residing in  
14 County of Los Angeles, California, and is the natural mother of DECEDENT.  
15 MILLER sues in her individual capacity as the mother of DECEDENT. MILLER  
16 seeks wrongful death damages.

17           8.       At all relevant times, Defendant COUNTY OF LOS ANGELES  
18 (“COUNTY”) is and was a duly organized public entity, form unknown, existing  
19 under the laws of the State of California. COUNTY is a chartered subdivision of the  
20 State of California with the capacity to be sued. COUNTY is responsible for the  
21 actions, omissions, policies, procedures, practices, and customs of its various agents  
22 and agencies, including the County of Los Angeles Sheriff’s Department and its  
23 agents and employees. At all relevant times, Defendant COUNTY was responsible  
24 for assuring that the actions, omissions, policies, procedures, practices, and customs  
25 of the and its employees and agents complied with the laws of the United States and  
26 of the State of California.

27           9.       At all relevant times, COUNTY was the employer of Defendant DOES  
28 1-10.

1           10. Defendants DOES 1-5 (“DOE DEPUTIES”) are sheriff’s deputies for  
2 the County of Los Angeles Sheriff’s Department. DOE DEPUTIES were acting  
3 under color of law within the course and scope of their duties as deputies for the  
4 County of Los Angeles Sheriff’s Department. DOE DEPUTIES were acting with  
5 the complete authority and ratification of their principal, Defendant COUNTY.

6           11. Defendants DOES 6-8 are supervisory deputies for the County of Los  
7 Angeles Sheriff’s Department who were acting under color of law within the course  
8 and scope of their duties as sheriff’s deputies for the County of Los Angeles  
9 Sheriff’s Department. DOES 6-8 were acting with the complete authority and  
10 ratification of their principal, Defendant COUNTY.

11           12. Defendants DOES 9-10 are managerial, supervisory, and  
12 policymaking employees of the County of Los Angeles Sheriff’s Department, who  
13 were acting under color of law within the course and scope of their duties as  
14 managerial, supervisory, and policymaking employees for the County of Los  
15 Angeles Sheriff’s Department. DOES 9-10 were acting with the complete authority  
16 and ratification of their principal, Defendant COUNTY.

17           13. On information and belief, DOES 1-10 were residents of the County of  
18 Los Angeles.

19           14. In doing the acts and failing and omitting to act as hereinafter  
20 described, Defendant DOE DEPUTIES 1-5 were acting on the implied and actual  
21 permission and consent of Defendants DOES 6-10.

22           15. In doing the acts and failing and omitting to act as hereinafter  
23 described, Defendant DOES 1-10 were acting on the implied and actual permission  
24 and consent of the COUNTY.

25           16. The true names and capacities, whether individual, corporate,  
26 association or otherwise of Defendants DOES 1-10, inclusive, are unknown to  
27 Plaintiffs, who otherwise sue these Defendants by such fictitious names. Plaintiffs  
28 will seek leave to amend this complaint to show the true names and capacity of

1 these Defendants when they have been ascertained. Each of the fictitiously-named  
2 Defendants is responsible in some manner for the conduct or liabilities alleged  
3 herein.

4 17. At all times mentioned herein, each and every defendant was the agent  
5 of each and every other defendant and had the legal duty to oversee and supervise  
6 the hiring, conduct, and employment of each and every defendant.

7 18. All of the acts complained of herein by Plaintiffs against Defendants  
8 were done and performed by said Defendants by and through their authorized  
9 agents, servants, and/or employees, all of whom at all relevant times herein were  
10 acting within the course, purpose, and scope of said agency, service, and/or  
11 employment capacity. Moreover, Defendants and their agents ratified all of the acts  
12 complained of herein.

13 19. DOES 1-10 are sued in their individual capacity.

14 20. Plaintiffs were dependent, to some extent, on DECEDENT for the  
15 necessities of life.

16 21. On or about January 22, 2018, Plaintiffs filed a comprehensive and  
17 timely claim for damages with the County of Los Angeles pursuant to California  
18 Government Code § 911.2.

19 22. On March 22, 2018, the County denied said claim.  
20

21 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

22 23. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
23 through 22 of this Complaint with the same force and effect as if fully set forth  
24 herein.

25 24. On August 16, 2017, near the 1300 block of 115<sup>th</sup> Street in the City of  
26 Los Angeles, County of Los Angeles, at approximately 7:15 p.m. on that date, DOE  
27 DEPUTIES detained DECEDENT without reasonable suspicion and arrested him  
28 without probable cause. The deputies wrongfully shot 34-year-old DECEDENT,

1 thereby causing DECEDENT serious physical injury, pain and suffering, loss of life,  
2 and loss of enjoyment of life. On information and belief, DECEDENT had fallen  
3 and was on the ground with nothing in either hand at the time he was shot. The  
4 deputies also detained DECEDENT without reasonable suspicion and arrested him  
5 without probable cause. On information and belief, the involved deputies also failed  
6 to timely summon medical attention after the shooting.

7       25. At all relevant times, DECEDENT posed no immediate threat of death  
8 or bodily injury to any person, including to the involved deputies.

9       26. DECEDENT suffered at least one gunshot wound. After the shooting,  
10 DECEDENT was transported to a hospital where he was pronounced dead.

11       27. The use of deadly force against DECEDENT was excessive and  
12 objectively unreasonable under the circumstances, especially because DECEDENT  
13 was unarmed and did not pose an immediate threat of death or serious bodily injury  
14 to anyone at the time of the shooting. On the date of the incident, DECEDENT did  
15 not physically injure any deputy or any other person.

16       28. Upon information and belief, Defendants did not timely summon  
17 medical care or permit medical personnel to treat DECEDENT. The delay of  
18 medical care to DECEDENT was a contributing cause of DECEDENT's death.

19       29. After the shooting, DOE DEPUTIES detained Plaintiff LEWIS SR.  
20 without reasonable suspicion and arrested him without probable cause. DOE  
21 DEPUTIES transported Plaintiff LEWIS SR. from the scene to a sheriff's station  
22 where he was held in a room for at least three hours before he was questioned by  
23 DOE DEPUTIES. After several hours in sheriff's custody, Plaintiff LEWIS SR. was  
24 finally informed that his son had passed and was released shortly thereafter.

25       30. Plaintiffs were dependent on DECEDENT, to some extent, for the  
26 necessities of life.

27  
28

1           31. Plaintiff K.L. is DECEDENT's successors-in-interest as defined in  
2 Section 377.11 of the California Code of Civil Procedure and succeed to  
3 DECEDENT's interest in this action as the natural son of DECEDENT.

4  
5                                   **FIRST CLAIM FOR RELIEF**

6                   **Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)**

7                                   (Plaintiff K.L. against Defendants DOE DEPUTIES)

8           32. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
9 through 31 of this Complaint with the same force and effect as if fully set forth  
10 herein.

11           33. Defendants DOE DEPUTIES detained DECEDENT without  
12 reasonable suspicion and arrested him without probable cause.

13           34. When Defendants DOE DEPUTIES chased and/or pointed their  
14 weapons at DECEDENT, and shot DECEDENT, they violated DECEDENT's right  
15 to be secure in his person against unreasonable searches and seizures as guaranteed  
16 to DECEDENT under the Fourth Amendment to the United States Constitution and  
17 applied to state actors by the Fourteenth Amendment.

18           35. The conduct of Defendants DOE DEPUTIES was willful, wanton,  
19 malicious, and done with reckless disregard for the rights and safety of DECEDENT  
20 and therefore warrants the imposition of exemplary and punitive damages as to  
21 Defendant DOE DEPUTIES.

22           36. As a result of their misconduct, Defendants DOE DEPUTIES are liable  
23 for DECEDENT's injuries, because they were integral participants in the wrongful  
24 detention and arrest.

25           37. Plaintiff K.L. brings this claim as successor-in-interest to the  
26 DECEDENT, and seeks survival damages, including physical and mental pre-death  
27 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
28 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and



1 MILLER bring this claim in their individual capacities and seek wrongful death  
2 damages. Plaintiffs also seek attorney's fees under this claim.

3  
4 **SECOND CLAIM FOR RELIEF**

5 **Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)**

6 (Plaintiff LEWIS SR. against Defendants DOE DEPUTIES)

7 38. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
8 through 37 of this Complaint with the same force and effect as if fully set forth  
9 herein.

10 39. After the shooting, Defendants DOE DEPUTIES detained LEWIS SR.  
11 without reasonable suspicion and arrested him without probable cause.

12 40. When Defendants DOE DEPUTIES detained LEWIS SR., transported  
13 him to a sheriff's station, and kept him there for several hours, they violated LEWIS  
14 SR.'s right to be secure in his person against unreasonable searches and seizures as  
15 guaranteed to LEWIS SR. under the Fourth Amendment to the United States  
16 Constitution and applied to state actors by the Fourteenth Amendment.

17 41. The conduct of Defendants DOE DEPUTIES was willful, wanton,  
18 malicious, and done with reckless disregard for the rights and safety of DECEDENT  
19 and therefore warrants the imposition of exemplary and punitive damages as to  
20 Defendant DOE DEPUTIES.

21 42. As a result of their misconduct, Defendants DOE DEPUTIES are liable  
22 for LEWIS SR.'s injuries, because they were integral participants in the wrongful  
23 detention and arrest.

24 43. Plaintiff LEWIS SR. brings this claim in his individual capacity and  
25 seek compensatory damages. Plaintiff also seeks attorney's fees under this claim.

26 //



**THIRD CLAIM FOR RELIEF**

**Fourth Amendment —Excessive Force (42 U.S.C. § 1983)**

(Plaintiff K.L. against Defendants DOE DEPUTIES)

44. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 43 of this Complaint with the same force and effect as if fully set forth herein.

45. Defendants DOE DEPUTIES used excessive force against DECEDENT when they shot him. Defendants DOE DEPUTIES' unjustified shooting deprived DECEDENT of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

46. As a result of the foregoing, DECEDENT suffered great physical pain and emotional distress up to the time of his death, loss of enjoyment of life, loss of life, and loss of earning capacity.

47. As a result of their misconduct, Defendants DOE DEPUTIES are liable for DECEDENT's injuries, either because they were integral participants in the use of excessive force, or because they failed to intervene to prevent these violations.

48. The conduct of Defendants DOE DEPUTIES was willful, wanton, malicious, and done with reckless disregard for the rights and safety of DECEDENT, and therefore warrants the imposition of exemplary and punitive damages as to Defendants DOE DEPUTIES.

49. The shooting was excessive and unreasonable, and DECEDENT posed no immediate threat of death or serious bodily injury at the time of the shooting. Further, Defendants DOE DEPUTIES' shooting and use of force violated their training and standard police officer training.

50. Plaintiff K.L. brings this claim as successor-in-interest to the DECEDENT, and seeks survival damages, including physical and mental pre-death

1 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
 2 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
 3 MILLER bring this claim in their individual capacities and seek wrongful death  
 4 damages. Plaintiffs also seek attorney's fees under this claim.

#### 6 **FOURTH CLAIM FOR RELIEF**

##### 7 **Fourth Amendment —Denial of Medical Care (42 U.S.C. § 1983)**

8 (Plaintiff K.L. against Defendants DOE DEPUTIES)

9 51. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
 10 through 50 of this Complaint with the same force and effect as if fully set forth  
 11 herein.

12 52. The denial of medical care by Defendants DOE DEPUTIES deprived  
 13 DECEDENT of his right to be secure in his person against unreasonable searches  
 14 and seizures as guaranteed to DECEDENT under the Fourth Amendment to the  
 15 United States Constitution and applied to state actors by the Fourteenth Amendment.

16 53. As a result of the foregoing, DECEDENT suffered great physical pain  
 17 and emotional distress up to the time of his death, loss of enjoyment of life, loss of  
 18 life, and loss of earning capacity.

19 54. Defendants DOE DEPUTIES knew that failure to provide timely  
 20 medical treatment to DECEDENT could result in further significant injury, the  
 21 unnecessary and wanton infliction of pain, or death, but disregarded that serious  
 22 medical need, causing DECEDENT great bodily harm and death.

23 55. The conduct of Defendants DOE DEPUTIES was willful, wanton,  
 24 malicious, and done with reckless disregard for the rights and safety of DECEDENT  
 25 and therefore warrants the imposition of exemplary and punitive damages as to  
 26 Defendants DOE DEPUTIES.

27 56. As a result of their misconduct, Defendants DOE DEPUTIES are liable  
 28 for DECEDENT's injuries, either because they were integral participants in the

1 denial of medical care, or because they failed to intervene to prevent these  
2 violations.

3 57. Plaintiff K.L. brings this claim as successor-in-interest to the  
4 DECEDENT, and seeks survival damages, including physical and mental pre-death  
5 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
6 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
7 MILLER bring this claim in their individual capacities and seek wrongful death  
8 damages. Plaintiffs also seek attorney's fees under this claim.

### 9 10 **FIFTH CLAIM FOR RELIEF**

#### 11 **Substantive Due Process (42 U.S.C. § 1983)**

12 (By All Plaintiffs against Defendants DOE DEPUTIES)

13 58. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
14 through 57 of this Complaint with the same force and effect as if fully set forth  
15 herein.

16 59. Plaintiff K.L. had a cognizable interest under the Due Process Clause of  
17 the Fourteenth Amendment of the United States Constitution to be free from state  
18 actions that deprive him of life, liberty, or property in such a manner as to shock the  
19 conscience, including but not limited to unwarranted state interference in Plaintiff  
20 K.L.'s familial relationship with his father, DECEDENT.

21 60. Plaintiff LEWIS SR. had a cognizable interest under the Due Process  
22 Clause of the Fourteenth Amendment of the United States Constitution to be free  
23 from state actions that deprive him of life, liberty, or property in such a manner as to  
24 shock the conscience, including but not limited to unwarranted state interference in  
25 Plaintiff LEWIS SR.'s familial relationship with his son, DECEDENT.

26 61. Plaintiff MILLER had a cognizable interest under the Due Process  
27 Clause of the Fourteenth Amendment of the United States Constitution to be free  
28 from state actions that deprive her of life, liberty, or property in such a manner as to

1 shock the conscience, including but not limited to unwarranted state interference in  
2 Plaintiff MILLER's familial relationship with her son, DECEDENT.

3 62. DECEDENT had a cognizable interest under the Due Process Clause of  
4 the Fourteenth Amendment of the United States Constitution to be free from state  
5 actions that deprive him of life, liberty, or property in such a manner as to shock the  
6 conscience.

7 63. The aforementioned actions of Defendants DOE DEPUTIES, along  
8 with other undiscovered conduct, shock the conscience, in that they acted with  
9 deliberate indifference to the constitutional rights of DECEDENT and Plaintiffs, and  
10 with purpose to harm unrelated to any legitimate law enforcement objective.

11 64. As a direct and proximate result of these actions, DECEDENT  
12 experienced pain and suffering and eventually died. DOE DEPUTIES thus violated  
13 the substantive due process rights of Plaintiffs to be free from unwarranted  
14 interference with their familial relationships with DECEDENT.

15 65. As a direct and proximate cause of the acts of DOE DEPUTIES,  
16 Plaintiffs have suffered emotional distress, mental anguish, and pain. Plaintiffs have  
17 also been deprived of the life-long love, companionship, comfort, support, society,  
18 care, and sustenance of DECEDENT, and will continue to be so deprived for the  
19 remainder of their natural lives.

20 66. The conduct of DOE DEPUTIES was willful, wanton, malicious, and  
21 done with reckless disregard for the rights and safety of DECEDENT and Plaintiffs  
22 and therefore warrants the imposition of exemplary and punitive damages as to  
23 Defendants DOE DEPUTIES.

24 67. Plaintiff K.L. brings this claim as successor-in-interest to the  
25 DECEDENT, and seeks survival damages, including physical and mental pre-death  
26 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
27 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
28

1 MILLER bring this claim in their individual capacities and seek wrongful death  
2 damages. Plaintiffs also seek attorney's fees under this claim.

3  
4 **SIXTH CLAIM FOR RELIEF**

5 **Municipal Liability – Ratification (42 U.S.C. § 1983)**

6 (By All Plaintiffs against Defendants COUNTY and DOES 6-10)

7 68. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
8 through 67 of this Complaint with the same force and effect as if fully set forth  
9 herein.

10 69. Defendants DOE DEPUTIES acted under color of law.

11 70. The acts of Defendants DOE DEPUTIES deprived DECEDENT and  
12 Plaintiffs of their particular rights under the United States Constitution.

13 71. Upon information and belief, a final policymaker, acting under color of  
14 law, who had final policymaking authority concerning the acts of Defendant DOE  
15 DEPUTIES, ratified the individual deputies' acts and the bases for them. Upon  
16 information and belief, the final policymaker knew of and specifically approved of  
17 the individual officer defendant's acts.

18 72. Upon information and belief, a final policymaker has determined (or  
19 will determine) that the acts of Defendants DOE DEPUTIES were "within policy."

20 73. Upon information and belief, a final policymaker has ratified the use of  
21 excessive deadly force by their deputies, including finding that use of deadly force  
22 acceptable when juries have found the force to be excessive.

23 74. By reason of the aforementioned acts and omissions, Plaintiffs have  
24 suffered loss of the love, companionship, comfort, care, society, training, guidance,  
25 and past and future support of DECEDENT. The aforementioned acts and  
26 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,  
27 and death.

1        75. Accordingly, Defendants COUNTY and DOES 6-10 each are liable to  
2 Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

3        76. Plaintiff K.L. brings this claim as successor-in-interest to the  
4 DECEDENT, and seeks survival damages, including physical and mental pre-death  
5 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
6 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
7 MILLER bring this claim in their individual capacities and seek wrongful death  
8 damages. Plaintiffs also seek attorney's fees under this claim.

9  
10                                    **SEVENTH CLAIM FOR RELIEF**

11                    **Municipal Liability – Failure to Train (42 U.S.C. § 1983)**

12                    (By All Plaintiffs against Defendants COUNTY and DOES 6-10)

13        77. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
14 through 76 of this Complaint with the same force and effect as if fully set forth  
15 herein.

16        78. Defendants DOE DEPUTIES acted under color of law.

17        79. The acts of Defendants DOE DEPUTIES deprived DECEDENT and  
18 Plaintiffs of their particular rights under the United States Constitution.

19        80. The training policies of Defendant COUNTY were not adequate to  
20 train its deputies to handle the usual and recurring situations with which they must  
21 deal.

22        81. Defendant COUNTY was deliberately indifferent to the obvious  
23 consequences of its failure to train its deputies adequately.

24        82. The failure of Defendant COUNTY to provide adequate training caused  
25 the deprivation of Plaintiffs' rights by Defendants DOE DEPUTIES; that is,  
26 Defendants' failure to train is so closely related to the deprivation of Plaintiffs'  
27 rights as to be the moving force that caused the ultimate injury.

83. On information and belief, COUNTY failed to train DOE DEPUTIES properly and adequately.

84. By reason of the aforementioned acts and omissions, Plaintiffs have suffered loss of the love, companionship, comfort, care, society, training, guidance, and past and future support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life, and death.

85. Accordingly, Defendants COUNTY and DOES 6-10 each are liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

86. Plaintiff K.L. brings this claim as successor-in-interest to the DECEDENT, and seeks survival damages, including physical and mental pre-death pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual capacities and seek wrongful death damages. Plaintiffs also seek attorney's fees under this claim.

## **EIGHTH CLAIM FOR RELIEF**

### **Municipal Liability – Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

(By All Plaintiffs against Defendants COUNTY and DOES 6-10)

87. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 86 of this Complaint with the same force and effect as if fully set forth herein.

88. Defendants DOE DEPUTIES acted under color of law.

89. Defendants DOE DEPUTIES acted pursuant to an expressly adopted official policy or a longstanding practice or custom of the Defendant COUNTY.

90. On information and belief, Defendants DOE DEPUTIES were not disciplined, reprimanded, retrained, suspended, or otherwise penalized in connection with DECEDENT's death.



1           91. Defendants COUNTY and DOE DEPUTIES together with other  
2 COUNTY policymakers and supervisors, maintained, inter alia, the following  
3 unconstitutional customs, practices, and policies:

- 4           (a) Using excessive force, including excessive deadly force;
- 5           (b) Providing inadequate training regarding the use of deadly force;
- 6           (c) Employing and retaining as sheriff's deputies individuals such as  
7 Defendants DOE DEPUTIES who Defendant COUNTY at all  
8 times material herein knew or reasonably should have known  
9 had dangerous propensities for abusing their authority and for  
10 using excessive force;
- 11          (d) Inadequately supervising, training, controlling, assigning, and  
12 disciplining COUNTY deputies, and other personnel, including  
13 Defendants DOE DEPUTIES who Defendant COUNTY knew or  
14 in the exercise of reasonable care should have known had the  
15 aforementioned propensities and character traits;
- 16          (e) Maintaining grossly inadequate procedures for reporting,  
17 supervising, investigating, reviewing, disciplining and  
18 controlling misconduct by COUNTY deputies, Defendants DOE  
19 DEPUTIES, including failing to require deputies involved in the  
20 use of force or misconduct to give statements regarding the  
21 incident;
- 22          (f) Failing to adequately discipline COUNTY sheriff's deputies,  
23 including Defendants DOE DEPUTIES for the above-referenced  
24 categories of misconduct, including "slaps on the wrist,"  
25 discipline that is so slight as to be out of proportion to the  
26 magnitude of the misconduct, and other inadequate discipline  
27 that is tantamount to encouraging misconduct;
- 28

- 1 (g) Announcing that unjustified shootings are “within policy,”
- 2 including shootings that were later determined in court to be
- 3 unconstitutional;
- 4 (h) Even where shootings are determined in court to be
- 5 unconstitutional, refusing to discipline, terminate, or retrain the
- 6 deputies involved;
- 7 (i) Encouraging, accommodating, or facilitating a “blue code of
- 8 silence,” “blue shield,” “blue wall,” “blue curtain,” “blue veil,”
- 9 or simply “code of silence,” pursuant to which sheriff’s deputies
- 10 do not report other deputies’ errors, misconduct, or crimes.
- 11 Pursuant to this code of silence, if questioned about an incident
- 12 of misconduct involving another officer, while following the
- 13 code, the officer being questioned will claim ignorance of the
- 14 other officers’ wrongdoing.
- 15 (j) Maintaining a policy of inaction and an attitude of indifference
- 16 towards soaring numbers of police shootings, including by
- 17 failing to discipline, retrain, investigate, terminate, and
- 18 recommend officers for criminal prosecution who participate in
- 19 shootings of unarmed people.

20 92. By reason of the aforementioned acts and omissions, Plaintiffs have  
 21 suffered loss of the love, companionship, comfort, care, society, training, guidance,  
 22 and past and future support of DECEDENT. The aforementioned acts and  
 23 omissions also caused DECEDENT’s pain and suffering, loss of enjoyment of life,  
 24 and death.

25 93. Defendants COUNTY and DOES 6-10, together with various other  
 26 officials, whether named or unnamed, had either actual or constructive knowledge  
 27 of the deficient policies, practices and customs alleged in the paragraphs above.  
 28 Despite having knowledge as stated above, these defendants condoned, tolerated and

1 through actions and inactions thereby ratified such policies. Said defendants also  
 2 acted with deliberate indifference to the foreseeable effects and consequences of  
 3 these policies with respect to the constitutional rights of DECEDENT, Plaintiffs,  
 4 and other individuals similarly situated.

5 94. By perpetrating, sanctioning, tolerating and ratifying the outrageous  
 6 conduct and other wrongful acts, DOES 6-10 acted with intentional, reckless, and  
 7 callous disregard for the life of DECEDENT and for DECEDENT's and Plaintiffs'  
 8 constitutional rights. Furthermore, the policies, practices, and customs  
 9 implemented, maintained, and still tolerated by Defendants COUNTY and DOES 6-  
 10 10 were affirmatively linked to and were a significantly influential force behind the  
 11 injuries of DECEDENT and Plaintiffs.

12 95. Accordingly, Defendants COUNTY and DOES 6-10 each are liable to  
 13 Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

14 96. Plaintiff K.L. brings this claim as successor-in-interest to the  
 15 DECEDENT, and seeks survival damages, including physical and mental pre-death  
 16 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
 17 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
 18 MILLER bring this claim in their individual capacities and seek wrongful death  
 19 damages. Plaintiffs also seek attorney's fees under this claim.

## 20 21 **NINTH CLAIM FOR RELIEF**

### 22 **False Arrest/False Imprisonment**

23 (By Plaintiff K.L. against Defendants COUNTY and DOE DEPUTIES)

24 97. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
 25 through 96 of this Complaint with the same force and effect as if fully set forth  
 26 herein.

27 98. Defendants DOE DEPUTIES, while working as officers for the County  
 28 of Los Angeles Sheriff's Department and acting within the course and scope of their

1 duties, intentionally deprived DECEDENT of his freedom of movement by use of  
2 force, threats of force, menace, fraud, deceit, and unreasonable duress. DOE  
3 DEPUTIES detained DECEDENT without reasonable suspicion and arrested him  
4 without probable cause.

5 99. DECEDENT did not knowingly or voluntarily consent.

6 100. Defendants DOE DEPUTIES detained DECEDENT for an appreciable  
7 amount of time by pursuing DECEDENT and keeping their guns trained on him and  
8 making him otherwise feel that he was not free to leave.

9 101. The conduct of DOE DEPUTIES was a substantial factor in causing the  
10 harm to DECEDENT.

11 102. Defendant COUNTY is vicariously liable for the wrongful acts of  
12 Defendants DOE DEPUTIES pursuant to section 815.2(a) of the California  
13 Government Code, which provides that a public entity is liable for the injuries  
14 caused by its employees within the scope of the employment if the employee's act  
15 would subject him or her to liability.

16 103. The conduct of DOE DEPUTIES was malicious, wanton, oppressive,  
17 and accomplished with a conscious disregard for the rights of DECEDENT, entitling  
18 Plaintiffs to an award of exemplary and punitive damages.

19 104. As a result of their misconduct, Defendants DOE DEPUTIES are liable  
20 for DECEDENT's injuries, either because they were integral participants in the  
21 wrongful detention and arrest, or because they failed to intervene to prevent these  
22 violations.

23 105. Plaintiff K.L. brings this claim individually and as successor-in-interest  
24 to DECEDENT, and seeks survival damages, including pre-death physical and  
25 mental pain and suffering, loss of life, and loss of enjoyment of life, and wrongful  
26 death damages under this claim.

**NINTH CLAIM FOR RELIEF**

**Battery**

(Wrongful Death)

(By All Plaintiffs against Defendants COUNTY and DOE DEPUTIES)

106. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 105 of this Complaint with the same force and effect as if fully set forth herein.

107. DOE DEPUTIES, while working as sheriff's deputies for the County of Los Angeles Sheriff's Department, and acting within the course and scope of their duties, intentionally shot DECEDENT multiple times and used unreasonable and excessive force against him. As a result of the actions of DOE DEPUTIES, DECEDENT suffered severe pain and suffering, loss of enjoyment of life, and ultimately died from his injuries. DOE DEPUTIES had no legal justification for using force against DECEDENT, and their use of force while carrying out their duties as sheriff's deputies was an unreasonable and nonprivileged use of force.

108. As a direct and proximate result of the conduct of DOE DEPUTIES as alleged above, DECEDENT sustained injuries and died from his injuries and also lost his earning capacity. As a direct and proximate result of the conduct of DOE DEPUTIES as alleged above, DECEDENT suffered survival damages pursuant to Code of Civil Procedure Section 377.34.

109. COUNTY is vicariously liable for the wrongful acts of DOE DEPUTIES 1-5 pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

110. The conduct of DOE DEPUTIES was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of Plaintiffs and DECEDENT, entitling Plaintiff K.L. individually and as successor-in-interest to

1 DECEDENT and Plaintiffs LEWIS SR. and MILLER, individually, to an award of  
2 exemplary and punitive damages.

3 111. Plaintiff K.L. brings this claim as successor-in-interest to the  
4 DECEDENT, and seeks wrongful death damages for the violation of DECEDENT's  
5 rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual  
6 capacities and seek wrongful death damages.

7  
8 **TENTH CLAIM FOR RELIEF**

9 **Negligence**

10 (Wrongful Death)

11 (By All Plaintiffs against all Defendants)

12 112. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
13 through 111 of this Complaint with the same force and effect as if fully set forth  
14 herein.

15 113. Police deputies, including Defendants, have a duty to use reasonable  
16 care to prevent harm or injury to others. This duty includes using appropriate  
17 tactics, giving appropriate commands, giving warnings, and not using any force  
18 unless necessary, using less than lethal options, and only using deadly force as a last  
19 resort.

20 114. Defendants breached this duty of care. Upon information and belief,  
21 the actions and inactions of Defendants were negligent and reckless, including but  
22 not limited to:

- 23 (a) the failure to properly and adequately assess the need to detain,  
24 arrest, and use force or deadly force against DECEDENT;  
25 (b) the negligent tactics and handling of the situation with  
26 DECEDENT, including pre-shooting negligence;  
27 (c) the negligent detention, arrest, and use of force, including deadly  
28 force, against DECEDENT;

- (d) the failure to provide prompt medical care to DECEDENT;
- (e) the failure to properly train and supervise employees, both professional and non-professional, including DOE DEPUTIES;
- (f) the failure to ensure that adequate numbers of employees with appropriate education and training were available to meet the needs of and protect the rights of DECEDENT;
- (g) the negligent handling of evidence and witnesses; and
- (h) the negligent communication of information during the incident.

115. As a direct and proximate result of Defendants' conduct as alleged above, and other undiscovered negligent conduct, DECEDENT was caused to suffer severe pain and suffering and ultimately died. Also as a direct and proximate result of Defendants' conduct as alleged above, Plaintiffs suffered emotional distress and mental anguish. Plaintiffs also have been deprived of the life-long love, companionship, comfort, support, society, care and sustenance of DECEDENT, and will continue to be so deprived for the remainder of their natural lives.

116. COUNTY is vicariously liable for the wrongful acts of Defendants DOE DEPUTIES pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

117. Plaintiff K.L. brings this claim as successor-in-interest to the DECEDENT, and seeks wrongful death damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual capacities and seek wrongful death damages.

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**ELEVENTH CLAIM FOR RELIEF**

**(Violation of Cal. Civil Code § 52.1)**

(By Plaintiff K.L. against all Defendants)

118. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 117 of this Complaint with the same force and effect as if fully set forth herein.

119. California Civil Code, Section 52.1 (the Bane Act), prohibits any person from using violent acts or threatening to commit violent acts in retaliation against another person for exercising that person's constitutional rights.

120. On information and belief, Defendants DOE DEPUTIES while working for the COUNTY and acting within the course and scope of their duties, intentionally committed acts of violence against DECEDENT, including by shooting him without justification or excuse, by integrally participating and failing to intervene in the above violence, and by denying him necessary medical care.

121. When Defendants shot DECEDENT, they interfered with his civil rights to be free from unreasonable searches and seizures, to due process, to equal protection of the laws, to medical care, to be free from state actions that shock the conscience, and to life, liberty, and property.

122. On information and belief, Defendants intentionally and spitefully committed the above acts to discourage DECEDENT from exercising his civil rights, to retaliate against him for invoking such rights, or to prevent him from exercising such rights, which they were fully entitled to enjoy.

123. On information and belief, DECEDENT reasonably believed and understood that the violent acts committed by Defendants DOE DEPUTIES were intended to discourage him from exercising the above civil rights, to retaliate against him, or invoking such rights, or to prevent him from exercising such rights.

124. Defendants successfully interfered with the above civil rights of DECEDENT.

1           125. The conduct of Defendants was a substantial factor in causing  
2 DECEDENT's harms, losses, injuries, and damages.

3           126. COUNTY is vicariously liable for the wrongful acts of Defendants  
4 DOE DEPUTIES pursuant to section 815.2(a) of the California Government Code,  
5 which provides that a public entity is liable for the injuries caused by its employees  
6 within the scope of the employment if the employee's act would subject him or her  
7 to liability.

8           127. Defendants DOES 6-10 are vicariously liable under California law and  
9 the doctrine of *respondeat superior*.

10           128. The conduct of Defendants was malicious, wanton, oppressive, and  
11 accomplished with a conscious disregard for DECEDENT's rights, justifying an  
12 award of exemplary and punitive damages as to Defendant DOE DEPUTIES.

13           129. Plaintiff K.L. brings this claim as successor-in-interest to DECEDENT  
14 and seeks survival damages, including loss of life and loss of enjoyment of life  
15 under this claim. Plaintiff also seeks attorney's fees under this claim.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs K.L, Kenneth Lewis Sr., and Belinda Miller request entry of judgment in their favor and against Defendants County of Los Angeles, and Does 1-10, inclusive, as follows:

- A. For compensatory damages in whatever other amount may be proven at trial, including survival damages, which include pre-death pain and suffering, emotional distress, and loss of enjoyment of life, as well as wrongful death damages under federal and state law;
- B. For funeral and burial expenses, and loss of financial support;
- C. For punitive damages against the individual defendants in an amount to be proven at trial;
- D. For statutory damages;
- E. For interest;
- F. For reasonable attorneys' fees, including litigation expenses;
- G. For costs of suit; and
- H. For such further other relief as the Court may deem just, proper, and appropriate.

DATED: June 1, 2018

LAW OFFICES OF DALE K. GALIPO

By /s/Hang D. Le  
Dale K. Galipo  
Hang D. Le  
Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury.

DATED: June 1, 2018

LAW OFFICES OF DALE K. GALIPO

By                     /s/ *Hang D. Le*                      
Dale K. Galipo  
Hang D. le  
Attorneys for Plaintiffs